

407 CONCEPCION



**BUILDING AND STANDARDS BOARD AGENDA ITEM # 3 FOR
WEDNESDAY, JULY 25, 2012**

CODE COMPLIANCE DIVISION

MEMORANDUM

July 11, 2012

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Environmental Services Department

FROM: Bill Stern, Deputy Building Official

SUBJECT: 407 S. Concepcion Street, El Paso, Texas 79905

The following is a brief chronology of the investigation of the referenced location:

- 1) First investigated on November 14, 2011 the structure was found open, abandoned and being used as harborage by unwanted persons. This single family dwelling was built in 1954, constructed of brick and wood frame with stucco finish and a wood framed roof. The structure is in an advanced state of disrepair. The stucco coating has fallen in several areas exposing the underlying structure and causing the walls to become compromised. The walls and floor contain severe structural cracks showing signs of settlement. The plumbing, mechanical and electrical systems are nonexistent. There are weeds, trash and debris throughout the property.
- 2) A certified condemnation letter was mailed to Felipe Rayos, Marcos Palacios and Virginia Palacios.
- 3) Certified notices of the public hearing scheduled for July 25, 2012 were mailed to the owners and all interested parties on July 12, 2012.
- 4) As of July 12, 2012, \$4,108.32 in taxes is owed.

The owners have been notified of the property maintenance violations at this property. To date there has been no response or corrective action taken, and therefore the Division recommends that it be found:

- 1) That the structure is substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the structure is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
- 3) That the structure's certificate of occupancy be revoked; and
- 4) That the structure cannot be rehabilitated; and
- 5) That the structure be demolished within thirty (30) days, and
- 6) That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days; and
- 7) That upon failure by the owner or any other interested party to comply with the order of the Building and Standards Commission, the City may take whatever action is necessary to bring the property into compliance and place a lien on the property for the work which will be done by the City.

Code Compliance Division
May 3, 2012

NOTICE OF VIOLATION

Felipe G. Rayos
Marcos & Virginia Palacios
P. O. Box 133
Van Horn, Tx 79855-0133

Re: 407 S. Concepcion St.
Blk: 11 Val Verde
Lot: 66
Zoned: R-5
ENHS11-01057
7108 2133 3932 6354 4200

To All Owners, Lienholders, and Mortgagees:

An inspection at the above referenced address has revealed that the structure is in violation of the El Paso Municipal Code, Chapter 18.50, Property Maintenance Code, which states:

18.50.108.1 General.

When a structure or equipment is found by the Director to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure or equipment shall be condemned pursuant to the provisions of Chapter 2.38 of this code.

The El Paso Municipal Code Chapter 18.50 International Property Maintenance Code defines unsafe structure as follows:

18.50.108.1.1 Unsafe Structures.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

18.50.108.1.2 Unsafe Equipment

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

18.50.108.1.3 Structure Unfit for Human Occupancy.

A structure is unfit for human occupancy whenever the Director finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth or contamination, or lacks ventilation, illumination, sanitary or heating facilities or other

essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public

The structure located at **407 S. Concepcion St., El Paso, Texas, 79905** is in violation of the requirements found in the following sections of the 2009 International Property Maintenance Code as adopted in the El Paso City Code, Chapter 18.50, Property Maintenance Code:

- a. The floors have not been maintained in a safe manner. [Sec. 304.1.1.9]
- b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6 & Sec.305.2]
- c. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]
- d. The means of egress is/are inadequate and do not meet minimum code requirements. [Sec. 702.4]
- e. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]
- f. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- g. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]
- h. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- i. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- j. The structure needs to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of all trash and debris within (30) days from receipt of this letter. [Sec. 108.2]
- k. The repairs to the structural elements and/or service systems referred to in the previous sections must be completed within 30 days of your receipt of this letter. If, due to the scope and complexity of the work more time is needed, you must make this request to the Environmental Services Department, Code Compliance Division.

As a result of the aforementioned violations, the following action may be taken:

- a. This case is being submitted to the City Prosecutor's Office for court proceedings. The court will decide if the structure is unsafe and if it should be vacated and secured, or demolished as per Chapter 2.38 of the El Paso Municipal Code.
- b. By authority of Chapter 18.02.103.10.3.3 of the El Paso Municipal Code the electrical service at this property may be disconnected at the request of the Environmental Services Department, Code Compliance Division because of Electrical Code violations.

Many of these corrections will require a permit. Permits for commercial or rental property must be taken out by a bonded and insured contractor who is registered with the City of El Paso.

According to the real property records of El Paso County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Code Compliance Division office, 7969 San Paulo Dr., El Paso, Texas, 79907, no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

Should you have any questions regarding this matter, please contact me at 599-6290.

Kevin Harrell
Building Inspector

NOTICE OF PUBLIC HEARING

To all interested parties:

The owners, mortgagee, lien holders and any others with a legal interest in the property described below are hereby ordered to appear before the Building and Standards Commission, herein after referred to as the "Commission", at the following time and place:

LOCATION: El Paso City Hall, 2 Civic Center Plaza, Council Chamber, 2nd Floor, El Paso, Texas 79901

DATE: July 25, 2012

TIME: 5:30 p.m.

PROPERTY: 407 S. CONCEPCION STREET, EL PASO, TEXAS also described as Lot 66, Block 11, VAL VERDE ADDITION in El Paso, El Paso County, Texas, according to the Map thereof on file in the Office of the County Clerk of El Paso, County, Texas.

The Property has been determined to be substandard based upon violations of the minimum standards of the 2009 Building Codes, adopted and incorporated in the El Paso City Code, Chapter 18, more specifically addressed below.

According to the real property records of El Paso County, and other relevant public records, Felipe Rayos, Marcos Palacios and Virginia Palacios, P.O. Box 133, Van Horn, TX 79855-0133 are the owners, herein after referred to as the "Owners" of the Property. If you no longer own or have an interest in the Property, you must execute an affidavit stating that you no longer own or have an interest in the Property and stating the name and last known address of the person who acquired the property from you, if applicable. The affidavit must be delivered in person or by certified mail, return receipt requested, to Code Compliance Division of Environmental Services, 7969 San Paulo Drive, El Paso, Texas 79907, no later than the 20th day after the date you receive this notice. If you do not execute and deliver the affidavit, it will be presumed that you own or have an interest in the Property, even if you do not.

On or about May 3, 2012 an inspection of the Property was conducted by the Environmental Services Division and the following violations were identified:

- a. The floors have not been maintained in a safe manner. (Code Sec. 304.1.1.9 of the 2009 International Property Maintenance Code (IPMC))
- b. The walls have not been maintained in a safe manner free of holes and cracks. (Sec. 304.6 & Sec.305.2 of the 2009 IPMC)
- c. The roof structure has not been maintained free of defects that may cause leaks. (Sec. 304.7 of the 2009 IPMC)
- d. The means of egress is/are inadequate and do not meet minimum code requirements. (Sec. 702.4 of the 2009 IPMC)

- e. The plumbing system is inadequate and does not meet minimum code requirements. (Sec. 504.1 of the 2009 IPMC)
- f. The electrical system is inadequate and does not meet minimum code requirements. (Sec. 604.3 of the 2009 IPMC)
- g. The HVAC system is inadequate and does not meet minimum code requirements. (Sec. 603.1 of the 2009 IPMC)
- h. The structure is open and accessible to unauthorized entry. (Sec. 301.3 of the 2009 IPMC)
- i. The premises are full of weeds, trash, and debris (Sec. 302.1 & Sec. 302.4 of the 2009 IPMC)
- j. The structure needs to be secured from unwanted entry and ongoing vandalism. (Sec. 108.2 of the 2009 IPMC)

The Owners are entitled to show cause that the Property is safe, does not constitute a dangerous structure and should not be declared a nuisance and ordered abated by presenting relevant evidence and testimony. If the Owners advocate for repair, then they bear the burden of proof to demonstrate the scope of any work that may be required to bring the property into compliance with Chapter 18.50 and the time it will take to reasonably perform the work. The allowable time periods for repair are governed by Texas Local Government Code, Sections 214.001(h), (i), (j) and (k). Any document relied upon to demonstrate that the Property is safe or that it can be repaired must be presented to the Commission at the hearing, including building plans, specifications, drawings, or reports from professionals and any other relevant documentation.

If the Owners fail to comply with the order of the Commission the City may pursue one or more of the following actions:

Perform any and all work necessary to bring the property into compliance with the Commission's order;

Assess civil penalties, provided for in the Commission's order, in an amount not to exceed \$1,000 per day or \$10 per day if the Property has a homestead exemption, that will accrue interest of 10% per year until paid in full;

Appoint a receiver as permitted by state law; and

Any other remedies permitted by state law.

Commission orders may be appealed to the State District Court within 30 days of the Final order. The Commission's authority and procedures in regard to a Dangerous Structure Hearing may be found in Chapter 2.38 of the El Paso City Code and in their duly adopted bylaws. A copy of the ordinance adopting the most current version of Chapter 2.38 is enclosed. The bylaws may be obtained at the Code Compliance Division

of Environmental Services, 7969 San Paulo Drive, El Paso, Texas 79907 or by calling (915) 599-6290.

This notice will be recorded in the real property records of El Paso County and will be binding on subsequent grantees, lien holders or other transferees of an interest in the Property.

The City Clerk is ordered to provide notice of this hearing to the record owners and all other interested parties, required by law, who are listed following this notice, and file this notice in the real property records of El Paso County.

FAILURE OF THE OWNER AND/OR LIENHOLDER OR MORTGAGEE TO TAKE THE ORDERED ACTION MAY RESULT IN THE CITY TAKING THE ORDERED ACTION AND FILING A LIEN AGAINST THE PROPERTY.

The City of El Paso appreciates your cooperation and prompt attention to remedying the nuisances on the Property. Please do not hesitate to contact me should you have any additional questions, comments or concerns relative to this notice.

APPROVED AS TO FORM
CONTENT

APPROVED AS TO

Lesley J. Nicholes
Assistant City Attorney

Bill Stern, C.B.O.
Deputy Building Official
Code Compliance Division

Enclosures: Unsafe structure report

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Notice regarding the property located at 407 S. Concepcion Street, El Paso, Texas was PUBLISHED in the official City newspaper on the ____ day of _____, 2012.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 407 S. Concepcion Street was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Felipe Rayos
P.O. Box 133
Van Horn, TX 79855-0133

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 407 S. Concepcion Street was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Marcos & Virginia Palacios
P.O. Box 133
Van Horn, TX 79855-0133

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 407 S. Concepcion Street was HAND-DELIVERED to:

City of El Paso
C/O City Clerk
#2 Civic Center Plaza
El Paso, TX 79901

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 407 S. Concepcion Street was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Governor of the Ysleta Del Sur Pueblo Indian Tribe
AKA Tigua Indian Community
119 S. Old Pueblo Road
El Paso, Texas 79907

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 407 S. Concepcion Street was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso Central Appraisal District
5801 Trowbridge Ave.
El Paso, Texas 79925

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 407 S. Concepcion Street was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso County Probate Court
500 E. San Antonio Avenue, Suite 703
El Paso, Texas 79901

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 407 S. Concepcion Street was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Delgado, Acosta, Spencer
Linebarger, Heard & Perez, LLP
Attn: Bonnie Cooper
221 N. Kansas Suite 1400
El Paso, TX 79901

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice was POSTED at
407 S. Concepcion Street, El Paso, Texas.

Date: _____

Time: _____

Inspector: _____



UNSAFE STRUCTURES REPORT

CODE COMPLIANCE DIVISION

DATE OF EXAMINATION: July 13, 2012

REP. DISTRICT: 8

ADDRESS: 407 S. Concepcion

ZONED: R-5

LEGAL DESCRIPTION: 11 VAL VERDE LOT 66 (3525 SQ FT) to the City of El Paso. El Paso County, Texas

OWNER: Felipe Rayos

ADDRESS: P.O. Box 133
Van Horn, Texas 79855

OWNER: Marcos Palacios

ADDRESS: P.O. Box 133
Van Horn, Texas 79855

OWNER: Virginia Palacios

ADDRESS: P.O. Box 133
Van Horn, Texas 79855

BUILDING USE: Abandoned single family dwelling

TYPE OF CONSTRUCTION: V

FOOTINGS: Concrete

CONDITION: Unable to determine condition of footing due to subterranean placement. A structural engineer should be hired to evaluate actual condition.

FLOOR STRUCTURE: Concrete slab with some floor linoleum covering.

CONDITION: Poor. The concrete floor is severely cracked and deteriorated in several places due to lack of maintenance.

EXTERIOR WALLS: Brick and wood frame w/stucco finish.

HEIGHT: 8'-10' +/-

THICKNESS: 6"-10" +/-

CONDITION: Poor. Stucco coating has fallen in several areas due to lack of maintenance exposing the underlying structure, compromising the walls and structural integrity. Several walls show signs of structural failure.

INTERIOR WALLS & CEILINGS: Wood frame ceilings w/spray plaster veneer.

CONDITION: Poor. Ceiling shows signs of deterioration due to lack of maintenance, exposed roof & ceiling assembly membranes, and fire damage. Interior walls contain graffiti and are showing signs of deterioration from lack of maintenance, moisture accumulation and fire damage.

ROOF STRUCTURE: Pitched roof with shingled composition roof covering.

CONDITION: Poor. Deterioration throughout is noted and moisture accumulation due to lack of maintenance. A registered roofing or building contractor should be hired to evaluate condition of roof system.

DOORS, WINDOWS, ETC.: Metal framed doors and windows, some with wrought iron guards.

CONDITION: Poor. The doors and windows are broken, deteriorated and missing hardware due to lack of maintenance.

MEANS OF EGRESS: Does not meet code requirements.

CONDITION: Poor. Windows, doors and window glass will need to be repaired or replaced to make them operational to meet minimum code requirements.

PLUMBING: Unknown

CONDITION: A licensed plumbing contractor should be hired to evaluate the plumbing system condition.

ELECTRICAL: Unknown

CONDITON: Unknown. A licensed electrical contractor should be hired to evaluate the electrical system condition.

MECHANICAL: Unknown

CONDITION: Unknown. A licensed mechanical contractor should be hired to evaluate the mechanical system condition.

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED: None

WARNING POSTED: No

BARRICADED: No

POLICE AID REQD.: No

REMARKS: The open and abandoned single family dwelling was built in 1954. The structure was found open, abandoned and being used as harborage by unwanted persons. The structure is in an advanced state of disrepair. The stucco coating has fallen exposing the underlying wall structure. The roof system is in disrepair throughout the structure. There is trash, weeds and debris throughout the property. The division recommends that the structure be demolished within thirty (30) days. That the property be cleaned of all weeds, trash and debris within thirty (30) days.

Kevin Harrell
Building Inspector